



## DEPARTMENT OF THE ARMY

ST. PAUL DISTRICT, CORPS OF ENGINEERS  
ARMY CORPS OF ENGINEERS CENTRE  
190 FIFTH STREET EAST  
ST. PAUL, MN 55101-1638

APR 23 2003

REPLY TO  
ATTENTION OF

Construction-Operations  
Regulatory (01-03057-JBK)

Mr. Steve Linn  
960 S. Wayfare Terrance  
Oconomowoc, Wisconsin 53066

Dear Mr. Linn:

We have reviewed information about your proposal to discharge fill material into an isolated wetland and pond as part of a berm construction project. The project site is in NW 1/4 SW 1/4 Sec. 35, T. 7N., R. 17E., Waukesha County, Wisconsin.

This jurisdictional determination takes into consideration the U.S. Supreme Court's decision in Solid Waste Agency of Northern Cook County v. Corps of Engineers (the SWANCC decision). The area encompassed by this jurisdictional determination is a waterbody/wetland that is approximately 2.0 acres in size.

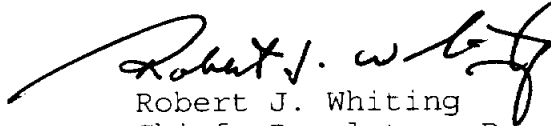
The subject water body is not a "water of the United States" because it is: (1) not a navigable water, (2) not an interstate water, (3) not part of a tributary system to 1 or 2, (4) not a wetland adjacent to any of the foregoing, and not an impoundment of any of the above. In addition, the interstate commerce nexus to this particular waterbody is insufficient to establish Clean Water Act jurisdiction. This waterbody is therefore not subject to regulation by the Corps of Engineers under Section 404 of the Clean Water Act.

This jurisdictional determination is valid only for the project and waterbody referenced above. It is based on the Headquarters guidance available to us at this time.

PLEASE NOTE THAT THIS LETTER DOES NOT ELIMINATE THE NEED FOR OTHER FEDERAL, STATE, LOCAL, OR OTHER AUTHORIZATIONS (SUCH AS THOSE OF THE DEPARTMENT OF NATURAL RESOURCES OR COUNTY).

If you have any questions, contact James B. Knowles in our Waukesha office at (262) 547-3064. In any correspondence or inquiries, please refer to the Regulatory number shown above.

Sincerely,

  
Robert J. Whiting  
Chief, Regulatory Branch

Copy Furnished: Mr. Randy Schumacher, WDNR  
Mr. Mike Cain, WDNR